

ICF/MR LEVEL OF CARE DETERMINATION FOR INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES

For Facilities and Community Services Programs Interpretive Guidelines

AREA	POLICY OR RULE	INTERPRETATION
<p>Programs requiring ICF/MR Level of Care</p> <p>42 CFR 435 - 441</p>	<p>To be eligible for services provided in an Intermediate Care Facility for the Mentally Retarded (ICF/MR) or receive services under one of Idaho's programs to assist individuals with mental retardation or a related condition (HCBS waiver or Katie Beckett program) to avoid institutionalization in an ICF/MR, individuals must be determined to need the level of services provided in an ICF/MR.</p> <p>In addition, for community based programs, there must be a indication that the consumer will need ICF/MR services in the near future (one month or less) unless he/she receives community based services as an alternative.</p>	<p>Prior to determining whether or not an individual meets ICF/MR level of care they must be determined to be mentally retarded or have a related condition as defined in Idaho Code 66-402 et seq by the Regional ACCESS Unit or Regional Medicaid Unit. (See Developmental Disability Determination Guidelines.)</p> <p>Complete social, medical, and functional evaluations must clearly indicate the functional levels of the consumer and the interventions needed.</p> <p>Prior to 1981, the only long term care available to individuals with mental retardation or a developmental disability was the ICF/MR benefit. Individuals living in institutions prior to the inception of the HCBS waiver program exhibited a broad range of functional ability. As the balance of care has shifted from institutionalization to home and community based care, the more severely disabled individuals have remained in the institution while those who are less disabled have been deinstitutionalized. Moreover, because community-based services tend to be more accessible to individuals with more abilities, they tend to choose community-based long term care over institutional care. Those with fewer abilities are more likely to continue to be served in ICFs/MR. As a result, the profile of individuals receiving home and community based care may differ from individuals in an institution. It is important to note that Section 1915C of the Social Security Act does not require that individuals served under a waiver resemble individuals who remain in the institution.</p>

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<p>IDAPA 16.03.09.610</p> <p>Programs requiring ICF/MR Level of Care (Continued)</p>	<p>1. Intermediate care facilities may include services in an institution for the mentally retarded or persons with related conditions if....the primary purpose of the institution is to provideservices for mentally retarded individuals or persons with related conditions;</p> <p>2. HCBS services are furnished..... only to recipients who the agency determines would, in the absence of these services, require the Medicaid level of care provided in a NF or ICF/MR.</p> <p>3. The agency may provide Medicaid to children 18 years of age or younger....who would be eligible for Medicaid if they were in a medical institution and who are receiving, while living at home, medical care that would be provided in a medical institution.....the agency must determine that the child requires the level of care provided in a NF or ICF/MR...</p>	<p>1. ICF/MR Admission - Determination is made by the Regional Medicaid unit or ACCESS unit. A written plan of care must be submitted with the evaluation/assessments.</p> <p>2. HCBS DD/ISSH Waivers - Determination is made by the Regional ACCESS dependent upon the availability of a waiver slot and the receipt of an Individual Support Plan that includes waiver services.</p> <p>3. Home Care for Certain Disabled Children (Katie Beckett) - Determination is made by the Regional Medicaid Unit. Authorization is not dependent upon the receipt of services, but rather on whether the child needs the level of services provided in an ICF/MR.</p>
<p>Determin-ation of the need for services</p>	<p>Individuals requesting services in an ICF/MR, on the DD/ISSH waivers, or wishing to gain Medicaid eligibility through the Katie Beckett eligibility process must be determined to need the level of services that are provided in an ICF/MR.</p>	<p>Persons with a developmental disability may be determined eligible for ICF/MR level of care if they need active treatment services and meet one or more of the four criterion.</p>
<p>Active Treatment</p> <p>42 CFR</p>	<p>Clients who are authorized for services in an ICF/MR, on the DD waiver, or are determined to meet medical eligibility for the Home Care for Certain Disabled Children (Katie Beckett) program</p>	<p>Active Treatment is an institutional concept. Its definition is based on the assumption that an individual is a resident in an institution (which is required to provide all the necessary care and services for that individual). The applicability of active treatment, therefore, is limited to the institutional setting. Federal law requires that individuals served under the waiver</p>

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<p>483.440 (b) (1)</p> <p>IDAPA 16.03. .09651 - 653</p> <p>Active Treatment (Continued)</p>	<p>must also be determined to be in need of active treatment services.</p>	<p>would be eligible, in the absence of the waiver, to receive active treatment in an institution. Active treatment for an individual applying for the DD waiver or for a child applying for the Home Care for Certain Disabled Children (Katie Beckett), would be the services and/or the informal supports that the individual needs to prevent his/her institutionalization in an ICF/MR.</p> <p>Active Treatment does not include:</p> <ol style="list-style-type: none"> 1) services to maintain generally independent consumers who are able to function with little supervision or in the absence of a continuous active treatment program; or 2) parenting activities directed toward the acquisition of age-appropriate developmental milestones; or 3) interventions that address age-appropriate limitations; or 4) general supervision of children whose age is such that supervision is required by all children of the same age. <p>Under a HCBS waiver, the State must assure that necessary safeguards have been taken to protect the health and welfare of the recipients of waiver services. Therefore, it is reasonable to conclude that a person with developmental disabilities (who would receive active treatment if institutionalized) must receive care and services, which ensure health and welfare when a program of activities is made available in the community.</p> <p>While determination for active treatment is needed for ICF/MR eligibility for Home Care for Certain Disabled Children (Katie Beckett) and HCBS DD Waiver programs, the consumer may or may not choose to receive the same level of intensity of services they would receive if placed in an ICF/MR. Consumers in these categories may elect to receive fewer services than they would receive in an ICF/MR as long as they can be safely and effectively served in the community.</p>

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Active Treatment (Continued)	<p>To be determined to need active treatment the consumer must be in need of a program which includes aggressive, consistent implementation of specialized and generic training, treatment, health services and related services which are directed toward....</p> <p>The acquisition of skills and behaviors necessary for the consumer to function with as much self determination and independence as possible; or</p> <p>The prevention or slowing of regression or loss of current optimal functional status.</p> <p>The need for these services must be on a continuous basis.</p>	<p>Consumers must require the type of service delivery system inherent in the active treatment process. This process includes a comprehensive functional assessment; evaluation of the assessment by the consumer and an interdisciplinary team to establish measurable goals and objectives to meet the consumer's needs, the development and implementation of strategies directed toward meeting the goals and objectives, and the ongoing evaluation of progress and revision to promote progression toward the goals and objectives.</p> <p>Consumers must require others to assist them in planning their day and to build in multiple training opportunities directed at the identified objectives. Trained staff are necessary to implement the interventions.</p> <p>The determination of the individual's needs and how they are met should take into consideration the individual's age and include opportunities for consumer choice and self management.</p> <p>The degree of structure, supervision, training and/or supports necessary to ensure safety and promote attainment of objectives and quality of life is equal to that which would be provided in an ICF/MR.</p> <p>"Continuous" is defined as the need for competent interaction/interventions of providers, family members and friends with consumers at all times in formal and informal settings.</p> <p>The following are some examples of consumers who may need active treatment on a continuous basis:</p> <ul style="list-style-type: none"> a. Consumers who are not usually able to apply skills they learned in training situations to other environments; and/or b. Consumers who are not capable of working at a competitive wage level without support;

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		<p>and/or</p> <p>c. Consumers who are generally not able to engage in appropriate social interactions; and/or</p> <p>d. Consumers who cannot function independently without aggressive and consistent training; and/or</p> <p>e. Consumers who are not able to take care of their personal needs, let others know their basic needs and wants, or understand simple commands; and/or</p> <p>f. Consumers who are not able to conduct themselves appropriately in the community.</p> <p>g. Consumers who require a range of professional services or interventions in order to make progress.</p>

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<p>Active Treatment (Continued)</p> <p>An individual who has mental retardation or a related condition must be determined to need the consistent, intense, and frequent services provided in an ICF/MR as indicated in criterion 1-4</p>		<p>To gather this information, the following questions may be used:</p> <ol style="list-style-type: none"> 1) Is the person generally capable of independent functioning with little supervision or for children, do they generally function at chronologically age appropriate levels? If not what skills are needed for this person to be independent or at age levels and in what areas? 2) Does the person need the consistent, intense, frequent services that active treatment provides to maintain these skills? 3) Does this person need a pattern of activities provided by competent or specialized individuals and would not acquire or maintain the skills with generic or typical activities? 4) Does this person need a process involving assessment, the pinpointing of skills, providing structured activities to acquire the identified skills and monitoring of progress towards the acquisition or maintenance of skills? 5) How is this above information documented?
<p>Criterion 1</p> <p>Functional Limitations</p> <p>IDAPA 16.03.09612</p>	<ol style="list-style-type: none"> 1. Persons 16 years or older may qualify based on their functional skills. Persons with an age equivalency composite score of 8 years 0 months or less on a full-scale functional assessment would qualify. 2. Persons under 16 years old qualify if their age equivalency composite score is less than 50% of their chronological age. 	<ol style="list-style-type: none"> 1. An individual at this functional level or below would need the level of services provided in an ICF/MR, including active treatment. <p>This decision will be made, unless medically contraindicated, using the Woodcock Johnson Scales of Independent Behavior (SIB) or Woodcock Johnson SIB-R. All assessments used in the determination process must reflect current functioning.</p> <ol style="list-style-type: none"> 2. An individual at this functional level or below would need the level of services provided in an ICF/MR, including active treatment. Any standardized assessment that provides a functional age equivalency may be used. <p>Example: A four (4) year old functioning at 2.0 years of age overall would qualify, a 4 year</p>

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		<p>old functioning at greater than 2year 0 months of age overall would not qualify.</p> <p>* The first year these guidelines go into effect, everyone 16 years of age and above needs to have an SIB-R completed. For individuals below 16, any standardized assessment more appropriate to children providing an age equivalency score may be used. Following the first year when an individual is redetermined for ICF/MR LOC, a new SIB-R may not be needed if it meets the current status of the individuals. The determination that the SIB-R meets the current status of the individual is done through review of other material that identifies the current level of the consumer.</p>
<p>Criterion 2</p> <p>Maladaptive Behaviors</p> <p>IDAPA</p> <p>16.03.09613</p>	<p>1. Persons may qualify for ICF/MR level of care based on maladaptive behavior. Persons will be eligible if their General Maladaptive Index Score on the Woodcock Johnson Scales of Independent Behavior-Revised (SIB-R) is -22 or less.</p> <p>2. Persons may qualify for ICF/MR level of care based on maladaptive if their score is above -22 and they engage in aggressive or self injurious behavior of such intensity that the behavior seriously endangers the safety of the individual or others, the behavior is directly related to developmental disability and the person requires active treatment to control or decrease the behavior.</p>	<p>1) Individuals with developmental disabilities who have maladaptive behaviors at this level or below would need the level of services provided in an ICF/MR, including active treatment.</p> <p>2) This behavior must be of such intensity that it truly posses danger and does not include perceived fear of being in danger.</p> <p>The following are examples of behaviors/crimes that may be a direct result of a developmental disability:</p> <ol style="list-style-type: none"> 1. They may commit a crime as a result of modeling an illegal behavior; 2. They may offend by victimizing people who are young or vulnerable based on poor judgment because of their developmental disability. (she was tall and looked old enough); 3. They may commit crimes as a result of learning history (they, as children, committed crimes but because of age and disability were not consequented for the crime); 4. Offenders with a disability my have a high rate of criminal/sub-criminal behavior that society sees as a nuisance. 5. They offend as a result of the structure of the environment(persons who live in group

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		<p>homes with issues of privacy on a continuous basis);</p> <p>6. They may commit a crime as a result of inappropriate ideas about courtships(they think that a date means it is OK to automatically have sex with the other person);</p> <p>7. They may commit a crime because of poor sexual knowledge (did not know that touching others could be considered a crime);</p> <p>8. They may commit a sexual crime because of a prescribed medication that results in perpetual arousal;</p> <p>9. They may commit a crime because of a medical condition (a person who has a bladder infection or erectile dysfunction may exhibit behaviors that appear to be masturbatory);</p> <p>10. They may commit a crime because they have grown up in a “moral vacuum”and have never been exposed to the idea of morality(they don’t know that it is illegal/immoral to have sex with their sister);</p> <p>Redetermination for individuals who have already met ICMR level of care based on this criterion must be completed by professional staff who have worked with the individual, and in their expert judgment would again be dangerous in the absence of structure such as that provided in an ICF/MR.</p>
<p>Criterion 3</p> <p>Combination Functional/ Behavioral</p> <p>IDAPA</p> <p>16.03.09614</p>	<p>Persons may qualify for ICF/MR level of care if they display a combination of criterion 1 and criterion 2 at a level that is significant but does not meet the criteria in either area.</p>	<p>For persons 16 years of age or above an overall functional age equivalency up to 8.5 years is considered significant in the area of functionality when combined with a General Maladaptive Index Score on the Woodcock Johnson SIB-R up to -17.</p> <p>For persons below 16 years of age a functional overall age equivalency up to 53 percent of their chronological age is considered significant when combined with a General Maladaptive Index Score on the Woodcock Johnson SIB-R up to -17.</p>

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<p>Criterion 4 Medical IDAPA 16.03.09615</p>	<p>Individuals may meet ICF/MR level of care based on their medical condition if the medical condition significantly affects the individual's functional level/capabilities.</p>	<p>For individuals whose overall age equivalency or score on the Maladaptive Behavior Index is above criterion 1 and 2 and have significant medical problems, eligibility may be determined based on a medical condition and the need for services provided in an ICF/MR including active treatment. The supplemental medical assessment for ICF/MR level of care must be completed.</p>
<p>Redetermin- ation IDAPA 16.03.09630</p>	<p>Persons meeting ICF/MR eligibility prior to the implementation of these guidelines and at their annual redetermination are no longer found eligible, Medicaid payment for services will terminate at the time specified by the RMU or ACCESS Unit.</p>	<p>Individuals who were redetermined ineligible between 11/1/98 and 3/01/99 will be eligible to continue services until March 1, 2001. Individuals redetermined after 3/01/99 will be eligible to continue services until 03/01/2001. All new applicants after 03/01/99, must meet this criteria to be eligible. Persons who met ICF/MR level of care eligibility prior to March 1, 1999 but who do not meet 3/1/99 criteria will be informed at the time of the next redetermination after January 1, 2000 that they are not expected to be eligible after March 1, 2001. Beginning January 1, 2000, regional staff will inform them of fair hearing rights an/or review by central office committee. (LOC review committee see below)</p> <p>Persons who do not meet ICF/MR care after March 1, 2001, will lose medicaid payment for services on the date specified by the RMU or ACCESS unit.</p> <ol style="list-style-type: none"> 1. Persons living in an ICF/MR shall be transitioned to a less restrictive environment within 30 days of determination. 2. Persons receiving Home Care for Certain Disabled Children (Katie Beckett) must be given 10 days notification if they are not eligible. They will receive services until the end of the month in which the determination is made. If the determination is less than 10 days from the end of the month, they have until the end of the following month. 3. Persons receiving Developmental Disability or ISSH Waiver Service will discontinue the use of waiver services within 30 days as they must continue to meet ICF/MR level of care to be eligible for waiver services.
<p>Request for</p>	<p>Persons not meeting ICF/MR level of care</p>	<p>Persons who have been found not to be eligible for ICF/MR level of care may request a</p>

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reconsideration IDAPA 16.03.095656 IDAPA 16.03.09656	following these criteria may request a reconsideration by a Administrative Review Committee. The documentation reviewed by this committee may be information outside the parameters of the ICF/MR level of care criteria. (05/25/99)	reconsideration by a team which includes administrative staff from the Division of Family and Community Services, the Division of Medicaid, and interdisciplinary professionals who were not involved in the original determination prior to a request for a fair hearing. An appeal for a administrative review must be received by a regional program in writing within 15 days of the regional denial. This action does not replace the right to a fair hearing. Persons who receive a denial from the administrative review may request a fair hearing within thirty (30) days of the administrative denial.